



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FWP - 175789

PRELIMINARY RECITALS

On July 26, 2016, the above petitioner filed a Hearing request under Wis. Admin. Code § HA 3.03(4), to challenge a decision by the Adams County Health and Human Services regarding FoodShare benefits ["FS"]. The Hearing was held via telephone from Madison, Wisconsin on August 25, 2016.

The issue for determination is whether it was correct to end petitioner's FS effective August 1, 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

BY: [REDACTED], ES Manager
Adams County Health and Human Services
108 E North Street
Friendship, WI 53934-9443

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Adams County, Wisconsin.

2. Petitioner is subject to the Able-Bodied Adults without Dependents [“ABAWD”] FS work requirements. Exhibit #1.
3. During the months of October 2015, and February 2016, and July 2016 petitioner did not meet the ABAWD FS work requirements because, during each of those months, she did not work or participate in an allowable activities for a combined total of at least 80 hours per month or otherwise satisfy the requirements. Exhibits #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26 & #27.
4. An *About Your Benefits* letter notice dated July 19, 2016 was sent to petitioner informing her that her FS would end effective August 1, 2016 because she used 3 months of time-limited FS benefits without meeting the work requirement. Exhibit #25.

DISCUSSION

Able-Bodied Adults without Dependents [“ABAWD”]¹ must either meet the ABAWD work requirement or an exemption from the work requirement in order to continue to receive FS. Non-exempt ABAWDs who do not meet the work requirement will only be allowed to receive up to 3 full months of Time-Limited Benefits [“TLB”] in a 36-month time period.² *FoodShare Wisconsin Handbook* [“FWH”] 3.17.1.1.; See also, Wis. Stat. § 49.79(10)(a) (2013-14); 7 C.F.R. §§ 273.7 & 273.24 (2015).

An FS member is determined an exempt ABAWD if he or she is an ABAWD who meets at least one of the following criteria, as determined by the Income Maintenance [“IM”] agency:

- Determined unfit for employment, which includes someone who is:
 - Receiving temporary or permanent disability benefits from the government or a private source;
 - Unable to work due to physical or mental challenges, as determined by the IM agency;
 - Displays mental instability, combativeness, or other mental health issues; the IM worker should consider the member unfit for work and document an exemption, without requiring verification from a health care professional;
 - Verified as unable to work by a statement from a health care professional or a social worker;
 - Experiencing chronic homelessness;
 - A person is chronically homeless if he or she currently lacks a fixed, regular nighttime residence and does not expect to have a regular nighttime residence in the next 30 days. This includes people who are in a temporary housing situation.
- Receiving Unemployment Compensation [“UC”] or has applied for UC and is complying with UC work requirements (Note: If UC is denied or has ended, the member is no longer exempt regardless of the reason);

¹ An FS applicant or member is determined a **non**-ABAWD if he or she meets any one of the following criteria, as determined by the Income Maintenance [“IM”] agency: under age 18 or age 50 and older; unable to work; residing in a FS household with a child under age 18; or, pregnant. *FoodShare Wisconsin Handbook* [“FWH”] 3.17.1.4.

² ABAWD eligibility for FS is limited to three (3) months of Time-Limited FS Benefits [“TLB”] in a 36-month period in which the ABAWD is subject to, but is not complying with, the ABAWD work requirement and does not have a qualifying exemption. The three TLB months do not have to be consecutive. FWH 3.17.1.9.

- Regularly participating in an alcohol or other drug abuse [“AODA”] treatment or rehabilitation program;
- A student of higher education who is otherwise eligible for FS;
- A high school student 18 years of age or older, attending high school at least half-time;
- Primary caregiver of a dependent child under age 6 or an incapacitated person (may be part of the food unit or in a separate household);
- Receiving transitional FS benefits; or
- Meeting the ABAWD work requirement outside of FoodShare Employment and Training [“FSET”] through work and/or other allowable work program participation.

FWH 3.17.1.5.

An ABAWD is considered to be meeting the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month (use converted work hours if paid weekly or bi-weekly);
2. Participating and complying with an allowable work program at least 80 hours per month (allowable work programs include FSET, Refugee Employment and Training, Wisconsin Works [“W-2”], Trial Employment Match Program [“TEMP”], Children First, Workforce Investment Act [“WIA”] programs, Refugee Cash Assistance programs, and programs under section 236 of the Trade Act);
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or,
4. Participating and complying with the requirements of a workfare program.

FWH 3.17.1.7.

Petitioner did not meet the work requirements for 3 months (October 2015, February 2016, and July 2016) and has used-up all of her 3 full months of TLB.³ Petitioner disputes this and insists that she did meet the work requirements in October 2015, February 2016, and July 2016. She claims the County has dates and times wrong. However, the documentation in the record of this matter supports the County’s conclusion that petitioner did not meet the work requirement in October 2015, February 2016, and July 2016.

Much of the documentation that petitioner submitted is incomplete, unclear, confused, and/or unverified. For instance, petitioner submitted a handwritten letter dated July 27, 2016 from a person for whom she did volunteer work. It states that petitioner volunteered to take him to doctor appointments, do errands, etc. -- but is not specific as to dates and times and does not state for how many hours she volunteered (although petitioner herself added a handwritten note stating she volunteered approximately 75 hours). Exhibit #27. After the Hearing petitioner submitted another handwritten letter, this one not dated, from that same person stating that she volunteered 90.25 hours in July 2016. However, that second letter is not consistent with the first letter and still is not specific as to dates and times. Further, that second letter also states: “All [petitioner] does is gives [sic] me a ride to the store or so I can do errands. And that’s it.” It is difficult to believe that it takes 90.25 hours per month to simply drive to the store and do errands.

³ There is no evidence that petitioner was mentally or physically unable to work.

Based on all the documentation, it does appear to be the case that petitioner was, at various times, working and/or doing volunteer activity. However, she did not do so to the degree required. Therefore, it was correct to end petitioner's FS effective August 1, 2016 because she used 3 months of time-limited FS benefits without meeting the work requirement.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to end petitioner's FS effective August 1, 2016.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

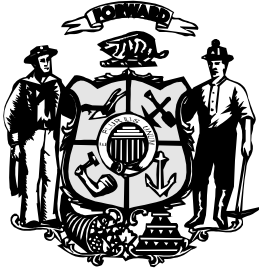
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of August, 2016

\s _____
Sean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 30, 2016.

Adams County Health and Human Services
Division of Health Care Access and Accountability